

March 10, 1933.

Mr. L. R. Gibbons,
County Treasurer,
Apache County,
St. Johns, Arizona.

Dear Mr. Gibbons:

I have this day been interviewed by Mr. E. C. Becker, member of the Board of Education, Apache County High School; also, Mr. M. R. White, Principal-elect of said school; also, Mr. H. E. Hendrix, Superintendent of Public Instruction. These gentlemen have all interviewed me with reference to the school situation as it affects the Board of Education and the Apache County Board of Supervisors.

I am enclosing herewith an opinion given under date of March 7th to Mr. Hendrix. I also direct your attention to two opinions of the Attorney General printed in School Laws of Arizona for 1931, pages 254 and 269. I am writing you this letter with the idea in mind that it may be of some advice to you as to how you should proceed in the matter of registering school warrants.

Section 1026 of the Code provides that the state and county apportionment shall be used exclusively for the payment of salaries and expenses for the school year. Any of that money in your hands cannot be used to pay registered warrants issued prior to the current school year. It can be used to pay school warrants, registered or unregistered, issued during the current school year. When any school warrant is presented to the county treasurer, he should pay it if there are funds available. At the end of the school year, if there is any balance available out of the state and county apportionment, then such funds should be used by the County Treasurer to take up registered warrants in the order of precedence established by dates of registration. The County Treasurer should honor warrants and pay them if there is money available; if there is no money available, he should register them.

The Board of Supervisors has no control over the funds of the school district.

A school district prepares its own budget and presents it to the County School Superintendent. If the budget presented by the school board exceeds the product determined by multiplying the average daily attendance times the figure representing the state and county apportionment, then, in that event, it will be necessary for the Board of Supervisors

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to run a district levy. The board is compelled to run a district levy. The Board of Supervisors has no authority to say that the school district shall be limited to the state and county apportionment, or shall be limited to any sum. The only interest that the Board of Supervisors has in the whole matter is to learn what the total sum of money is to be that must be raised by way of a levy to satisfy the county apportionment, and, secondly, any direct levy that is necessary to take care of any district apportionment (or district request).

It has been called to my attention that the Board of Education contracted with the Supervisors, or promised the Supervisors, that the district would live within a specified sum, which sum was to be considerably less than the total budget, and that the excess over and above the sum promised to be expended would be available to take up registered warrants of other years. Under the provisions of Section 1026, Revised Code of Arizona, 1928, the Board of Education was without authority to legally bind itself for the reason that the section of the Statute referred to compels the board to use funds received during current school year from state and county apportionment to pay salaries and contingent expenses of that current year.

The school board had the authority to expend all the moneys received from the state and county apportionment for school purposes. It had the authority to expend as much additional money as it saw fit. Any person who takes a school warrant is charged with the knowledge of knowing what funds will be available to the school district for the current year. He is also charged with the knowledge of knowing for what purposes and to what uses the board can put moneys received during the current year on account of state and county apportionments. The only limitation upon the board in the matter of issuing warrants is a practical one. The board can issue warrants as long as it can find anybody to take them.

The duty of the County Treasurer, as heretofore said, is to pay warrants issued during the current year from the current receipts from the state and county apportionment. Any moneys received during the current year by county treasurers on account of special district levy are available immediately to pay old registered warrants. If the district issues warrants in excess of funds available to pay same, the county treasurers has only one duty and that is to register the warrant. You will incur no personal liability by the registering of such warrants. Your act in registering them or pretending to register them will not make them a legal obligation of the county unless the warrant was issued

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by persons in authority and within the law. What I am trying to say is, that your act of registering the warrant will not obligate the county unless the warrant was regularly issued by other officials and for a legal purpose, legal consideration, etc..

I have advised Mr. Becker, as a member of his board, that the board may open the school and continue to conduct the same. If you decline to register the warrants, then it will be necessary for the holder of some warrant to bring mandamus proceedings. This is an expense that should not be fostered upon some teacher or creditor of the district. If you decline to register the warrants, then I believe you should give the person who presented the warrant a receipt acknowledging the fact that the warrant was presented; that you declined to pay the same for the reason that there were no funds and for such other or additional reasons as you desire to mention. This receipt will enable the holder thereof, should he bring mandamus proceedings and succeed in the suit, to have his warrant registered, bearing the registration as of the date that it was actually presented.

I am sending a copy of this letter to your County School Superintendent and County Attorney.

The suggestions herein made have been offered with the idea of assisting all people concerned as to their rights and liabilities, and I assure you it is no attempt upon my part to insert myself into the controversy or to endeavor to impose upon you my opinion.

Please feel free to call upon me at any time for any aid or assistance that we can render. It is our purpose to be of service if possible.

Very truly yours,

ARTHUR T. LAPRADE

Attorney General.

ATL:H

cc-Mr. Smith Gibbons,
County Attorney.

Mrs. Amelia Hunt Garcia,
County School Superintendent.

Mr. H. E. Hendrix,
Supt. of Public Instruction.